In the Supreme Court of the United States

OCTOBER TERM, 1972

No. 72-724

BRADLEY SISSON BARHAM, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

After a jury trial in the United States District Court for the District of Oregon, petitioner was convicted on two counts of having passed and uttered counterfeit currency and one count of having possessed and concealed counterfeit currency, all in violation of 18 U.S.C. 472. He was sentenced to concurrent terms of ten years' imprisonment on each count, subject to the parole eligibility provisions of 18 U.S.C. 4208(a)(2). The court of appeals affirmed, one judge dissenting (Pet. App. A1-A9).

Petitioner contends here, as he did below, that the evidence was insufficient to prove that he knew the money involved was counterfeit. The facts are fully

set forth in the opinions below. We believe the majority below reached the correct result, and we rely principally on its opinion in suggesting that no further review is warranted. We note in addition that, contrary to petitioner's assertion (Pet. 8), the jury was properly permitted to consider his testimony in determining whether he knew the counterfeit nature of the bills he admitted passing. Cf. *McGautha* v. *California,* 402 U.S. 183, 215–216; *United States* v. *Brown,* 456 F. 2d 293, 294, n. 2 (C.A. 2), and cases there cited, certiorari denied, 407 U.S. 910.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JANUARY 1973.

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